

**RULES AND REGULATIONS OF THE
LOUISVILLE/JEFFERSON COUNTY METRO ETHICS COMMISSION**

Section 1 Title and Scope

- 1.1 The title of this document is the Rules and Regulations of the Metro Ethics Commission pursuant to Metro Government Ordinance No. 71, Series 2003, as amended.
- 1.2 These Rules shall govern the procedure for filing and investigating all complaints; the practice in all hearing of complaints before the Metro Ethics Commission; and the procedure for seeking and rendering advisory opinions.

Section 2 Definitions

- 2.1 Commission: when referred to in these Rules shall mean the Metro Ethics Commission.
- 2.2 Ordinance: when referred to in these Rules shall mean Metro Government Ordinance No. 71, Series 2003, as amended.
- 2.3 Day: when referred to in these Rules shall mean calendar day unless otherwise noted. If the day upon which, or by which, an act is required to be done is a Saturday, Sunday or legal holiday, the act shall be done on the next work day.
- 2.4 Complainant: when referred to in these Rules shall mean the person or persons filing a complaint pursuant to the Metro Ethics Ordinance and these Rules and Regulations.
- 2.5 Respondent: when referred to in these Rules shall mean the person against whom a complaint is filed pursuant to the Ordinance and these Rules and Regulations.
- 2.6 Investigating Officer(s): when referred to in these Rules shall mean the person or persons designated by the Commission to investigate a complaint.
- 2.7 Hearing Officer(s): when referred to in these Rules shall mean the person or persons designated by the Commission to conduct a hearing concerning a complaint.

Section 3 General Provisions

- 3.1 The address of the Commission shall be:

Metro Ethics Commission
c/o Metro Human Resources Department
517 Court Place Suite 301
Louisville, KY 40202
mary.miles@loukymetro.org

- 3.2 All complaints, requests for advisory opinions and other correspondence directed to the Commission shall be addressed accordingly and shall be submitted on the form developed by the Commission for such inquiries, which is attached as Exhibit A and incorporated by reference.
- 3.3 These Rules may be amended by majority vote of the members of the Commission. Such amendments shall become effective upon approval by the Metro Council.

Section 4 Operation of the Commission

- 4.1 The Commission shall hold regular meetings as scheduled in the discretion of the Commission. The Commission may call special meetings at the discretion of the Chair.
- 4.2 Four members of the Commission shall constitute a quorum.

Section 5 Advisory Opinions

- 5.1 A Metro Officer as defined by the Ordinance may request an advisory opinion from the Commission concerning acts or activities covered by the Ordinance. Requests for advisory opinions by individuals other than Metro Officers will not be accepted or considered.
- 5.2 Such requests will be made in writing on the form designated by the Commission as Exhibit A to these Regulations.
- 5.3 Unless good cause is shown, such requests will be made to the Commission at least three weeks in advance of the act or activity that is the subject of the request. This will allow sufficient time for the Commission as a whole to consider the request.

- 5.4 If good cause is shown, the Chair, Vice-Chair or the Chair's designee may accept a request made within three weeks of the act or activity that is the subject of the request.
- 5.5 If good cause is shown within three weeks of the contemplated act or activity, the Chair and Vice-Chair, in consultation with a third member, shall consider and render an advisory opinion on behalf of the Commission. In this event, the advisory opinion shall be disseminated to the Commission no later than the next regularly scheduled meeting. Decisions rendered under this Section 5.5 will not be precedent on the Commission unless and until ratified by the full Commission.
- 5.6 All opinions shall be open for public inspection.
- 5.7 The Commission shall not entertain requests for advisory opinions from a person about the conduct of another person, except that Metro Officers as defined in the Ordinance may request an advisory opinion regarding the contemplated act or activity of a person over whom the requesting Metro Officer exercises supervisory authority.

Section 6 Complaints and requests for opinion by an Appointing Authority

- 6.1 A complaint may be filed by any person. Any complaint alleging a violation of the Ordinance shall be filed by mailing or hand-delivery of the written complaint to the Commission on the form designated by the Commission, Exhibit B.
- 6.2 An Appointing Authority under the ordinance may request an opinion concerning whether an act by a Metro Officer constitutes a violation of the ordinance. Such a request shall be filed by mailing or hand-delivery of the written request to the Commission on the form designated by the Commission, Exhibit A. All such requests shall comply with and be governed by the provisions of Sections 6 and 7 of these regulations.
- 6.3 A complaint shall be signed by the Complainant under oath and shall state the Complainant's full name and address, the name of the person alleged to have violated the Ordinance, and a detailed description of the facts which form the basis of the complaint, along with any documentary or other evidence supporting the Complaint.
- 6.4 The Commission shall dismiss without hearing any complaints that appear to be frivolous on their face, not reasonably

comprehensible, filed principally for the purpose of harassment, or which pertain to a person not within the definition of persons against whom the Ordinance may be enforced. The Complainant shall be informed in writing in all cases of the action taken by the Commission on each complaint.

- 6.5 Within fifteen (15) days following the receipt of a complaint, the Commission shall forward a copy of the complaint to the person alleged to have violated the Ordinance.
- 6.6 The person against whom the complaint is directed shall, within twenty (20) days of receipt of the complaint, file with the Commission a written response to the complaint. The response shall be signed by the Respondent under oath.
- 6.7 The Commission may commence an independent investigation into the facts alleged in the complaint using such available investigative resources as it may consider appropriate. Upon a determination to conduct an investigation, the Commission shall designate Investigating Officer(s). Such officer(s) may be members of the Commission.
- 6.8 After receipt by the Commission of the response and such other information it may have received pertaining to the matter, it will meet and consider the complaint, response and other information. The Commission may continue its investigation; determine whether the facts alleged constitute a violation of the Ordinance; or determine whether a Hearing should be held concerning the allegations in the complaint.
- 6.9 If the Commission determines that a Hearing should be held concerning the allegations in the complaint, it will issue a Notice of Hearing to the person alleged to have violated the Ordinance and to the Complainant. The Notice of Hearing shall identify the time and place of the hearing which shall not commence less than twenty (20) days following the date of the Notice of Hearing.
- 6.10 If the person alleged to have violated the Ordinance refuses, based on the right against self-incrimination or any other basis, to file a response or to testify at a hearing, the Commission shall proceed with its consideration and/or hearing.

Section 7 Conduct of Hearing

7.1 Pleadings and Other Documents

- A. All pleadings and other documents related to a hearing shall be printed or typewritten on one (1) side of a page; and double spaced.
- B. If a party is represented by an attorney, the party's attorney shall file a notice of appearance with the Commission; and sign pleadings and other documents filed by that party. Service of pleadings and other documents upon party's attorney shall be deemed proper service upon the party.
- C. Unless a statute or these Rules specifically provide otherwise, a pleading or other document shall not be required to be verified or accompanied by affidavit.
- D. Seven copies of a brief, motion, or other pleading shall be filed with the Commission.
- E. For good cause shown, the Commission may permit a party to amend a pleading or other document.

7.2 Disclosures

- A. At least ten (10) days prior to any scheduled hearing, the parties shall exchange the following information in writing and copies shall be filed with the Commission:
 - (i) The names and addresses of all persons each party intends to call as a witness and a brief summary of each witness' expected testimony.
 - (ii) Copies of all records or other documents each party expects to tender as evidence at the hearing.
- B. Any physical evidence not easily photocopied or reproduced shall be available for inspection by the opposing party and counsel at least ten (10) days prior to the hearing.
- C. Except for a showing of extraordinary circumstances, the Hearing Officer shall not permit a witness to testify or an exhibit to be admitted into evidence unless compliance has been made pursuant to this section.

- D. Any objection to a witness or to the admissibility of any document or other physical evidence shall be ruled upon by the Hearing Officer.

7.3 The Hearing

- A. Hearings shall be conducted by the Hearing Officer(s), who will be one or more members of the Commission, or a person(s) designated by the Commission.
- B. The parties to the hearing shall be the Respondent and the Investigating Officer(s).
- C. Upon motion to the Commission, the Complainant may intervene as a party to the hearing.
- D. During the hearing process, the parties may be represented by legal counsel or a representative of their choosing.
- E. The burden of going forward shall be with the appointed Investigating Officer.
- F. All witnesses shall testify under oath, as administered by the Hearing Officer(s).
- G. If requested, the Commission shall exclude the witnesses from the hearing; however, the intervening Complainant and the Respondent shall have the right to remain at all times.
- H. The hearing shall proceed in accordance with the rules of examination applicable in courts of law in the Commonwealth; however, hearsay evidence shall be admissible unless clearly irrelevant or grossly prejudicial.
- I. Opening and closing statements shall be allowed by both parties. The Hearing Officer(s) shall rule upon all motions made during the course of the hearing.
- J. A recording or record shall be made of the hearing. A party may obtain a copy of the transcript upon payment of the appropriate fee.

- K. The Commission shall stay proceedings for good cause shown upon motion of the Commonwealth Attorney or the United States Attorney having jurisdiction in the matter.

7.4 Decision of the Commission

- A. At the conclusion of the hearing, the Hearing Officer(s) shall prepare and submit to the entire Commission findings of fact and conclusions of law; and a recommended order.
- B. These findings and order shall be reduced to writing and distributed to members of the Commission within fifteen (15) days of the conclusion of the hearing. However, if a member of the Commission has served as the Investigating Officer, that member shall not vote on the Commission's final decision.
- C. The Commission may:
 - (i) Adopt the findings of fact, conclusions of law, and recommended order in whole or in part;
 - (ii) Issue its own findings of fact, conclusions of law, and order, including, if appropriate, any penalty; or
 - (iii) Take other action it deems necessary in order to reach a decision.
- D. A decision of the Commission shall be in writing; and contain a statement of its findings of fact; conclusions of law, and order, including penalty, if any. The decision shall be mailed to all parties.
- E. All deliberations under this Section will be held confidentially in executive session.

Approved by Commission: _____

Approved by Metro Council: _____